

## **BILL ANALYSIS**

C.S.H.B. 262  
By: Miles  
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Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Interested parties explain that community gardens are tracts of land that are divided into smaller garden plots and gardened by local residents and that the popularity of these gardens has grown in recent years. The parties report that many landowners, lessees, or occupants of land that is undeveloped have been receptive to groups setting up community gardens on their property but sometimes withdraw their support because of the potential for lawsuits arising from community gardening activities. The parties assert that liability should be waived for such landowners, lessees, and occupants under certain circumstances. C.S.H.B. 262 seeks to grant that protection.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.H.B. 262 amends the Civil Practice and Remedies Code to establish that an owner, lessee, or occupant of land that gives permission to another person to enter and use the land as a community garden does not, by giving that permission, ensure that the premises are safe or assume responsibility or incur any liability for damages arising from or related to any bodily or other personal injury to or death of any person who enters the premises for a purpose related to a community garden, property damage sustained by any person who enters the premises for that purpose, or an act of a third party that occurs on the premises. The bill establishes that the doctrine of attractive nuisance does not apply to a claim that is subject to the bill's provisions but that the bill's provisions do not limit the liability of an owner, lessee, or occupant of land for an injury caused by wilful or wanton acts or gross negligence by the owner, lessee, or occupant. The bill requires an owner, lessee, or occupant of land that allows the use of the premises as a community garden to post and maintain a clearly readable sign in a clearly visible location on or near the premises and requires the sign to contain specified warning language regarding the limited liability.

### **EFFECTIVE DATE**

September 1, 2015.

### **COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 262 may differ from the original in minor or nonsubstantive ways, the following

comparison is organized and formatted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

## INTRODUCED

SECTION 1. Chapter 75, Civil Practice and Remedies Code, is amended by adding Section 75.0025 to read as follows:

Sec. 75.0025. LIMITED LIABILITY OF PERSONS ALLOWING CERTAIN USES OF LAND. (a) In this section, "community garden" means land gardened by a cooperative group of people residing in a neighborhood or community for the purpose of providing fresh produce for the benefit of the residents of the neighborhood or community.

(b) An owner, lessee, or occupant of land that gives permission to another person to enter and use the land as a community garden does not by giving that permission:

(1) ensure that the premises are safe; or  
(2) assume responsibility or incur any liability for:

(A) damages arising from or related to any bodily or other personal injury to or death of any person who enters the premises for a purpose related to a community garden;

(B) property damage sustained by any person who enters the premises for a purpose related to a community garden; or

(C) an act of a third party that occurs on the premises.

(c) The doctrine of attractive nuisance does not apply to a claim that is subject to this section.

(d) This section does not limit the liability of an owner, lessee, or occupant of land for an injury caused by wilful or wanton acts or gross negligence by the owner, lessee, or occupant.

(e) An owner, lessee, or occupant of land that allows the use of the premises as a community garden shall post and maintain a clearly readable sign in a clearly visible location on or near the premises. The sign must contain the following warning language:

WARNING  
TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF THE LANDOWNER, LESSEE, OR OCCUPANT FOR DAMAGES ARISING FROM THE USE OF THIS PROPERTY

## HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Chapter 75, Civil Practice and Remedies Code, is amended by adding Section 75.0025 to read as follows:

Sec. 75.0025. LIMITED LIABILITY OF PERSONS ALLOWING CERTAIN USES OF LAND. (a) In this section, "community garden" means the premises used for recreational gardening by a group of people residing in a neighborhood or community for the purpose of providing fresh produce for the benefit of the residents of the neighborhood or community.

(b) An owner, lessee, or occupant of land that gives permission to another person to enter and use the land as a community garden does not by giving that permission:

(1) ensure that the premises are safe; or  
(2) assume responsibility or incur any liability for:

(A) damages arising from or related to any bodily or other personal injury to or death of any person who enters the premises for a purpose related to a community garden;

(B) property damage sustained by any person who enters the premises for a purpose related to a community garden; or

(C) an act of a third party that occurs on the premises.

(c) The doctrine of attractive nuisance does not apply to a claim that is subject to this section.

(d) This section does not limit the liability of an owner, lessee, or occupant of land for an injury caused by wilful or wanton acts or gross negligence by the owner, lessee, or occupant.

(e) An owner, lessee, or occupant of land that allows the use of the premises as a community garden shall post and maintain a clearly readable sign in a clearly visible location on or near the premises. The sign must contain the following warning language:

WARNING  
TEXAS LAW (CHAPTER 75, CIVIL PRACTICE AND REMEDIES CODE) LIMITS THE LIABILITY OF THE LANDOWNER, LESSEE, OR OCCUPANT FOR DAMAGES ARISING FROM THE USE OF THIS PROPERTY

AS A COMMUNITY GARDEN.

SECTION 2. Section 75.003(b), Civil Practice and Remedies Code, is.

SECTION 3. The change in law made by this Act applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 2015.

AS A COMMUNITY GARDEN.

SECTION 2. Same as introduced version.

SECTION 3. Same as introduced version.

SECTION 4. Same as introduced version.